

HAND-CARRY  
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:  
M. Clark DALE *et al.*

Group Art Unit: 1651

03 AUG - 1 FILED: 06

Application No.: 10/056,063

Examiner: Herbert J. Lilling

REC'D BY MAIL  
#15  
M.J.  
8/27/03

Filed: January 28, 2002

Attorney Dkt. No.: P66143US1

For: A HIGH SPEED, CONSECUTIVE BATCH OR CONTINUOUS, LOW EFFLUENT,  
PROCESS FOR THE PRODUCTION OF ETHANOL FROM MOLASSES,  
STARCHES, OR SUGARS

**SUPPLEMENT TO AMENDMENT UNDER RULE 1.116**

Commissioner of Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Further to the proposed amendment of July 28, 2003, please find herewith a copy of the supporting documents referred to on page 2 of that proposed amendment:

- a) a copy of Applicants' submission of October 3, 2002;
- b) confirmation of receipt thereof on October 25, 2002, by the accompanying copy of a letter dated October 28, 2002; and
- c) copy of letter of April 11, 2003.

Applicants apologize for omitting the noted copies from their prior submission on July 28, 2003.

**RECEIVED**

Respectfully submitted,

AUG 07 2003

JACOBSON HOLMAN PLLC TECH CENTER 1600/2900

By:

Irwin M. Aisenberg  
Reg. No. 19,007

The Jenifer Building  
400 Seventh Street, N.W.  
Washington, D.C. 20004-2201  
202/638-6666  
Atty. Dkt. No.: P66143US1  
IMA/cmd  
Date: August 1, 2003

03 AUG - 1 AM 7:06

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U.S. DEPT. OF AGRICULTURE  
NRRL**BPI**

**Bio-Process Innovation, Inc**  
**226 N 500 West**  
**W. Lafayette, IN 47906-8505**

M. Clark Dale, Ph.D.  
 President  
 web: bio-process.com

Telephone 765-746-2100  
 Fax 765-746-2100  
 Email: bpidale@concentric.net

J. L. Swezey, Curator  
 ARS Patent Culture Collection (NRRL)  
 National Center for Agricultural Utilization Research  
 Agricultural Research Service, USDA  
 1815 North University Street  
 Peoria, Illinois 61604-3999 U.S.A.

October 3, 2002

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AUG 07 2003

Dear Mr. Swezey,

TECH CENTER 1600/2900

Please find enclosed:

- 1) Two agar slants containing recently grown cultures of BPSC-15, a strain of *Saccharomyces cerevisiae* described in BPI's U.S Patent Application Serial No. 10/056,063
- 2) A fully executed ARS Culture Deposit Form
- 3) A check for \$500. as a depositor fee

We would like this culture to be maintained under clause 2 of the Budapest Treaty procedures :

"With reference to 886 O.G. 638, progeny of this (these) strain(s) will be available during pendency of the U.S. Patent application to one determined by the Commissioner of Patents to be entitled thereto under 37 CFR 1.14 of the Rules of Practice in Patent Cases and 35 U.S.C. 122. Also, access to progeny of this (these) strain(s) by other parties will be granted upon receipt of written authorization from your organization specifying the name and the Agricultural Research Service Culture Collection (NRRL) designation (NRRL number) of the strain and identifying the party who is to receive it. All other distribution will be withheld pending its (their) disclosure in a U.S. Patent. All restrictions on the availability of progeny of the strain(s) to *bona fide* requesters in the international public will be irrevocably removed upon the granting of the U.S. Patent(s) of which the strain(s) is (are) the subject."

Please do not hesitate to call, write, or email me if you have questions related to this deposit.

Sincerely,

M. Clark Dale

cc. Irwin Aisenberg  
 Jacobson Holman LLC

04/15/2003 06:31

765-746-2100

BIO -PROCESS



United States  
Department of  
Agriculture

Agricultural  
Research  
Service  
Midwest Area

National Center  
for Agricultural  
Utilization Research

181 North University Street  
Peoria, Illinois 61604  
Telephone: 309-681-6560  
Fax: 309-681-6672  
ARS CULTURE COLLECTION (NRRL) WEBSITE: <http://nrrl.ncaur.usda.gov>

April 11, 2003

Dr. Clark Dale  
Bio-Process Innovation, Inc.  
226 N 500 W  
W Lafayette, IN 47906-8506

Dear Dr. Dale:

This letter is to confirm that the process for patent deposit of strain BPSC-15 (NRRL Y-30630) is complete and that all fees have been paid for keeping this strain in the U.S. Department of Agriculture, Agriculture Research Service (ARS) Patent Culture Collection. I have also enclosed copies of information sent to you on October 28, 2002 in case you did not receive them. Your mention in the email dated April 10, 2003 that the strain is equivalent will be noted in the records. Please contact me if you have any other questions about this deposit.

Sincerely,

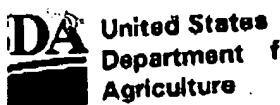
J. L. Swezey, Curator  
ARS Patent Culture Collection  
Microbial Genomics and Bioprocessing Research Unit  
Tel: (309) 681-6398  
Fax: (309) 681-6672  
Email: [swezeyjl@ncaur.usda.gov](mailto:swezeyjl@ncaur.usda.gov)

Enclosures

04/15/2003 06:31

765-746-2100

PAGE 03



Agricultural  
Research  
Service  
Midwest Area

National Center  
for Agricultural  
Utilization Research

BIO -PROCESS

1815 North University Street

Peoria, Illinois 61604

Telephone: 309-681-6560

Fax: 309-681-6672

ARS CULTURE COLLECTION (NRRL) WEBSITE  
<http://arriscaur.usda.gov>

October 28, 2002

Dr. M. Clark Dale  
Bio-Process Innovation, Inc.  
226 N 500 West  
W. Lafayette, IN 47906-8505

Dear Dr. Dale:

Your check for \$500.00 arrived on October 25, 2002, for the deposit under the Budapest Treaty of the below-listed strain into the ARS Patent Culture Collection. Therefore, I am now able to send you the International Receipt Forms (BP/4) and the Viability Statements for:

| Name                            | Strain Designation | NRRL Number  |
|---------------------------------|--------------------|--------------|
| <i>Saccharomyces cerevisiae</i> | BPSC-15            | NRRL Y-30630 |

I will send under separate cover our lyophilized preparation for this strain. As soon as you confirm the equivalency of this preparation to your original deposit, complete, sign, and return the original Viability Statement to me.

Sincerely,

J. L. Swezey, Curator  
ARS Patent Culture Collection  
Microbial Genomics and Bioprocessing Research Unit  
Tel: (309) 681-6398  
Fax: (309) 681-6672  
Email: [swezeyjl@mail.ncaur.usda.gov](mailto:swezeyjl@mail.ncaur.usda.gov)

Enclosures:  
International Receipt Form  
Viability Statement

BUDAPEST TREATY ON THE INTERNATIONAL  
RECOGNITION OF THE DEPOSIT OF MICROORGANISMS  
FOR THE PURPOSE OF PATENT PROCEDURES

## INTERNATIONAL FORM

TO  
Bio-Processing Innovations, Inc.  
226 N 500 West  
West Lafayette, IN 47906-8505

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT  
issued pursuant to Rule 7.1 by the  
INTERNATIONAL DEPOSITORY AUTHORITY  
identified at the bottom of this page

NAME AND ADDRESS  
OF DEPOSITOR

## I. IDENTIFICATION OF THE MICROORGANISM

Identification reference given by the  
DEPOSITOR:  
*Saccharomyces cerevisiae*  
BPSC-15

Accession number given by the  
INTERNATIONAL DEPOSITORY AUTHORITY:  
NRRL Y-30630

## II. SCIENTIFIC DESCRIPTION AND/OR PROPOSED TAXONOMIC DESIGNATION

The microorganism identified under I. above was accompanied by:

a scientific description

a proposed taxonomic designation

(Mark with a cross where applicable)

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AUG 07 2003

TECH CENTER 1600/2900

## III. RECEIPT AND ACCEPTANCE

This International Depositary Authority accepts the microorganism identified under I. above, which was received by it on October 4, 2002 (date of the original deposit)<sup>1</sup>

## IV. RECEIPT OF REQUEST FOR CONVERSION

The microorganism identified under I. above was received by this International Depositary Authority on (date of the original deposit) and a request to convert the original deposit to a deposit under the Budapest Treaty was received by it on (date of receipt of request for conversion).

## V. INTERNATIONAL DEPOSITORY AUTHORITY

Name: Agricultural Research Culture  
Collection (NRRL)  
International Depositary Authority

Address: 1815 N. University Street  
Peoria, Illinois 61604 U.S.A.

Signature(s) of person(s) having the power  
to represent the International Depositary  
Authority or of authorized official(s):

Date: 10-28-02

<sup>1</sup> Where Rule 6.4(d) applies, such date is the date on which the status of international depositary authority was acquired.

BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT  
OF MICROORGANISMS FOR THE PURPOSE OF PATENT PROCEDURES

## INTERNATIONAL FORM

VIABILITY STATEMENT

TO

Bio-Process Innovation, Inc.  
226 N 500 West  
West Lafayette, IN 47906-8505

issued pursuant to Rule 10.2 by the  
INTERNATIONAL DEPOSITORY AUTHORITY  
identified at the bottom of this page

NAME AND ADDRESS OF THE PARTY TO WHOM  
THE VIABILITY STATEMENT IS ISSUED

|   |   |
|---|---|
| I. DEPOSITOR  | II. IDENTIFICATION OF THE MICROORGANISM   |
| Name: Bio-Process Innovations, Inc.<br>226 N 500 West<br>Address: West Lafayette, IN 47906-8505 | Depositor's taxonomic designation and accession number given by the INTERNATIONAL DEPOSITORY AUTHORITY:<br><i>Saccharomyces cerevisiae</i><br>NRRL Y-30630<br>Date of: October 4, 2002<br><input checked="" type="checkbox"/> <sup>2</sup> Original Deposit<br><input type="checkbox"/> <sup>2</sup> New Deposit<br><input type="checkbox"/> <sup>2</sup> Repropagation of Original Deposit |

## III. (a) VIABILITY STATEMENT

Deposit was found:  Viable  Nonviable on October 7, 2002 (Date)

International Depository Authority's preparation was found viable on October 25, 2002 (Date)<sup>1</sup>

## III. (b) DEPOSITOR'S EQUIVALENCY DECLARATION

Depositor determined the International Depository Authority's preparation was

<sup>2</sup> Equivalent  <sup>2</sup> Not equivalent to deposit on 12/04/02 (Date)

Signature of Depositor M. Clark Dale / Bio Process Innov.

IV. CONDITIONS UNDER WHICH THE VIABILITY TEST WAS PERFORMED (Depositors/Depository)<sup>4</sup>

## V. INTERNATIONAL DEPOSITORY AUTHORITY

Name: Agricultural Research Culture Collection (NRRL)  
International Depository Authority

Address: 1815 N. University Street  
Peoria, Illinois 61604 U.S.A.

Signature(s) of person(s) having the power to represent the International Depository Authority or of authorized official(s):

Date:

*J.L. Berger*  
10-28-02

<sup>1</sup> Indicate the date of the original deposit or when a new deposit has been made.

<sup>2</sup> Mark with a cross the applicable box.

<sup>3</sup> In the cases referred to in Rule 10.2(a)(ii) and (iii), refer to the most recent viability test.

<sup>4</sup> Fill in if the information has been requested.